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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/502,047	07/29/2004	Yasuo Ibuki	P25723	2453
7055 7590 06/08/2007 GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			EXAMINER MICHALSKI, SEAN M	
			ART UNIT 3724	PAPER NUMBER
			NOTIFICATION DATE 06/08/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com
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Advisory Action Before the Filing of an Appeal Brief	Application No. 10/502,047	Applicant(s) IBUKI ET AL.	
	Examiner Sean M. Michalski	Art Unit 3724	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 May 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☒ Applicant's reply has overcome the following rejection(s): The rejection of claim 12 by 112 second paragraph.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____
 Claim(s) objected to: _____
 Claim(s) rejected: 1, 3 and 5-14.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s).
 13. ☐ Other: _____.


BOYER D. ASHLEY
 SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: The arguments against the references are not adequate. See additional sheet.

Response to Amendment

1. The amendment will be entered since it does not materially affect the scope of the claims, and is provided to clarify the meaning of claim 12, which appears to have been understood despite the ambiguity previously present. The previous rejections (applied 2/21/2007) are maintained.

Response to Arguments

2. Applicant's arguments filed 5/21/2007 have been fully considered but they are not persuasive.

Regarding applicants allegation that Van Der Borst does not disclose a cleaning speed, this is incorrect. Mode C may be termed a cleaning speed since the razor may be cleaned while the razor is operated at speed C. the recitation "cleaning speed" does not impart structure prohibiting the use of "mode C" as a cleaning speed. The standard of claim interpretation during prosecution is as follows: "claims in a pending application should be given their broadest reasonable interpretation" consistent with the specification and prior art. In re Pearson , 181 USPQ 641 (CCPA 1974). See additionally MPEP 904.01, and also In re Morris, 127 F.3d 1048, 44 USPQ2d 1023 (Fed. Cir. 1997). It has been established that during examination, where applicant has the ability to amend claims, the standard of claim interpretation is that the broadest

reasonable interpretation be given to all the terms of a claim, *absent a specific definition provided in the specification*, which would then control.

Regarding applicants contention that Van Der Borst does not disclose “cleaning elements nor cleaning operations” these limitations are not present in the claims.

Applicants statement that “device cannot include a cleaning drive mode and the VAN DER BORST device cannot (and is not capable of) change between a normal... and cleaning...mode” is without basis in fact. Having labeled one of the settings a cleaning mode (not precluded by any claim recitation), and reasonable because nearly any razor is capable of being cleaned during *any mode*, the switch from the mode C to a different mode constitutes such a change.

In response to applicants argument that “being capable of being cleaned does not comprise a cleaning mode” examiner believes that it does, and applicant has provided no controlling definition that would preclude this interpretation. Examiners position is reasonable : that a capability of being cleaned during a mode, means that that mode may rightly be called a cleaning mode. Applicant, who has the ability during prosecution to define exactly what is meant by cleaning mode to preclude this interpretation, has not done so, but relies on a statement (without factual evidence, or a reasonable line of thought) that is conclusory. Conclusory statements are to be given little weight in determination of patentability, and in this case, they are not persuasive.

In response to the allegation that Van Der Borst does not disclose any “driving frequency, number of revolutions per unit time, or blade amplitude” these are inherent

properties of the structure shown used in a manner consistent with it's intent. The lack of explicit disclosure does not preclude their presence.

3. In regards to applicants allegations that the combination of references Van Der Borst with Dekker and Van der Borst with Orloff "fails to teach or suggest the subject matter claimed" examiner disagrees. Each traversal of each combination is based on an argument against the references individually; namely that claim 1 is patentable, and that the secondary reference "fails to cure these deficiencies". The allegation of hindsight is not supported. Allegations not supported by facts or a convincing line of reasoning are to be given little weight in the consideration of the objective questions of patentability. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean M. Michalski whose telephone number is 571-272-6752. The examiner can normally be reached on M-F 7:30AM - 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3724

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SMM

A handwritten signature in black ink, appearing to read 'B. Ashley', with a stylized flourish at the end.

BOYER D. ASHLEY
SUPERVISORY PATENT EXAMINER